

REMARKS

Responsive to the Examiner's Action of January 27, 2006, Applicant has amended the claims to more clearly define the invention and request reconsideration over the rejection over the Myers, et al. patent in view of the Mahlstedt et al. patent. The reading of the Myers patent on some of the elements of the present claims is believed to be accidental and the claims now clearly distinguish over the Myers et al. patent in view of the Mahlstedt et al. patent with or without the Murray and Bodily et al. patents.

The Myers et al. patent is a height adjustable swing for a child and is not an exercise apparatus for adults. The Myers et al. swing does have a generally U-shaped swing portion movably attached to a pair of arms in the Examiner's reading of the reference and has a seat thereon for swinging an infant. The Myers et al. pair of arms having the handles are actually a part of the U-shaped section supporting the swing seat and are mounted for telescoping the U-shaped portion to adjust the height of the seat. The reading of these elements on the present invention is believed to be accidental since the present U-shaped swing portion in the present application is totally separate from and not connected to the pair of arms used for the pushing and pulling exercising of the arms. This has now been clarified in the claims by spelling out that the arms are

independently angularly adjustable about an axis and radially extend from one end portion of one generally U-shaped frame section to vary the angle or position of each arm relative to the U-shaped frame section and to each other. The arms of Applicant's invention are fixedly attached to the frame once they are adjusted. This clearly defines the claims over the Myers et al. patent as well as the Myers et al. in combination with the Mahlstedt et al. patent.

The Mahlstedt et al. patent, like the Myers et al. patent, is for an infant swing that may be used to pacify or entertain an infant. In one embodiment, the swing includes a collapsible seat frame and a collapsible base frame while in another embodiment the swing includes curved hanger arms that support a seat. The hanger arms are supported on the base frame and are oriented so that they are open or concave toward the rear of the swing. In another embodiment, a base frame of the swing includes housings that have handles to facilitate the transportation of the swing. This patent does not show a pair of arms in which each arm is independently and angularly adjustably attached about an axis to the frame. The present case has separate arms which radially extend from a frame section to vary the angular position of each arm independently of the other arm and relative to the U-shaped frame section. Any combination of Mahlstedt with the Myers et al. patent would merely

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be a modified infant's swing and still would not teach an exercise apparatus for adults in accordance with the present invention having separately and fixedly attached and position adjustable exercise arms for a user to push or pull on for exercising the arms.

The Murray patent is cited to show a leg exerciser. The Bodily et al. patent is a chair apparatus and method to stretch a hamstring in a leg of a patient and includes a leg board pivotally coupled to the seat back. The leg board receives a leg of a patient while the seat back receives the torso of the patient. The chair includes means for securing the leg of the patient to the leg board to maintain the leg in a substantially straight configuration. The chair also includes means for selectively adjusting and maintaining an angular orientation between the seat back and the leg board. It is difficult to see how this patent could be combined with any of the other cited patents. The combining of these patents with the Myers and the Mahlstedt et al. patents would require a totally new design which would look and operate nothing like the present invention.

It would be unobvious to combine the Myers et al. patent and the Mahlstedt et al. patent since Mahlstedt does not adjust separate arms independently for exercising a person's arms by moving the person against his/her own weight in accordance with the present

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invention. Any combination of the Myers and Mahlstedt et al. patents would be unobvious to a person of ordinary skill in the art in the absence of any teaching reference or in the absence of any reason for independently adjusting the swinging arms of the Myers et al. patent. Even so, such a combination would not teach an exercising device with separate independently adjustably arms which are angularly adjustable about an axis relative to one U-shaped frame section and which extend radially therefrom.

That is, the Myers et al. patent is a child's swing which has a frame with a pair of seat supporting arms suspended for swinging movement relative to the frame and has a seat mounted thereto. The support arms are a part of the U-shaped frame and merely telescope the seat height.

This no longer reads on the claim elements of the independent claims. The claims must be viewed in light of the specification which clearly distinguishes the case from the cited references.

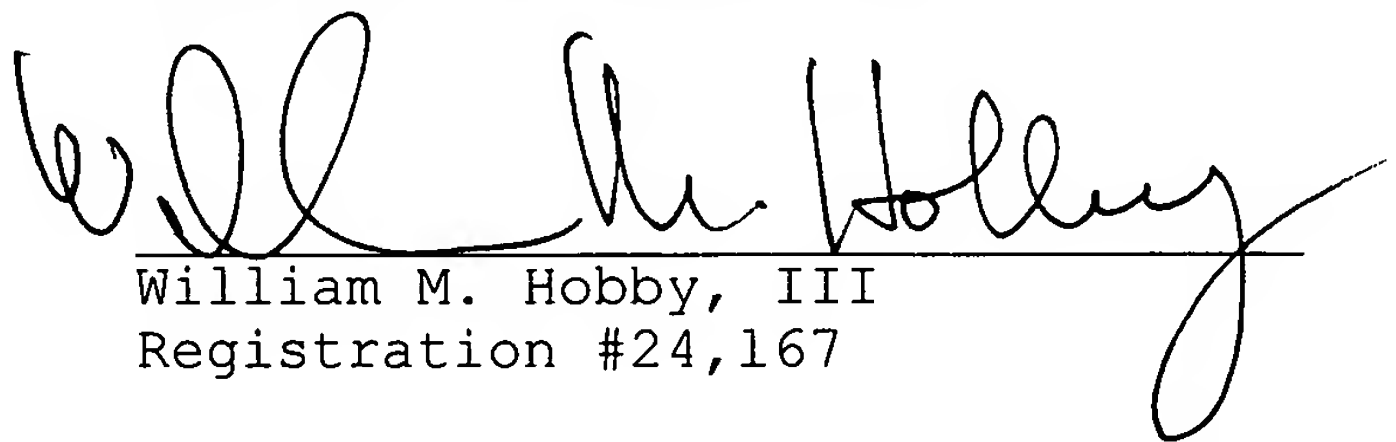
The claims have been amended to clearly distinguish the Myers et al. patent from the present invention. The Myers support arms are supported in a motor housing supported on the frame so that the motor swings a child seated in the chair. The arms cannot be used to swing the child or exercise the child's arms since the child swing is being actuated by a motor and the Myers et al. arms are

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merely part of the U-shaped portion holding the child's seat. There is also no combination of Myers et al. and Mahlstedt et al. that can produce an exercise apparatus as now set forth in the claims as amended. As the claims now read, there is no equivalent in the Myers et al. patent for a way to independently and angularly adjust each arm separately relative to the frame.

Applicant believes that the present invention with the claims as amended clearly defines over the prior references including the Myers et al. and the Mahlstedt et al. patent and believes that the present invention would be unobvious to a person of ordinary skill in the art in view of the Myers and Mahlstedt et al. patents. Accordingly, reconsideration and allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'William M. Hobby, III', written over a horizontal line.

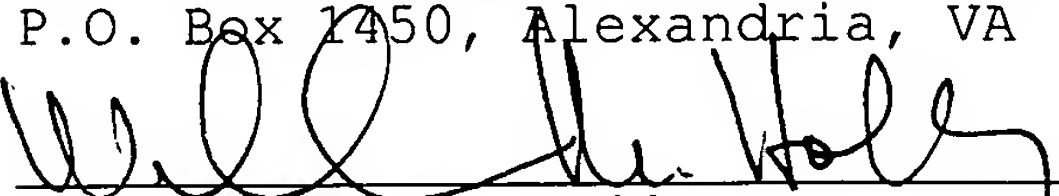
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